



DEFENSE LOGISTICS AGENCY
TROOP SUPPORT
700 ROBBINS AVENUE
PHILADELPHIA, PENNSYLVANIA 19111-5092

Ms. Ruth E. Ganister
Rosenthal and Ganister LLC
31 Tuner Lane
West Chester, PA 19380

DEC 30 2019

Ms. Ganister:

This letter responds to your Freedom of Information Act (FOIA) request, perfected on May 23, 2019, for copies of documents related to Contract Number SPE5B1-18-P-0003:

1. All modifications to the Contract since November 1, 2018.
2. All orders placed since November 1, 2018.
3. All documentation indicating delivery schedules for order.
4. All DD250's submitted.
5. All delivery documentation for all items delivered.
6. All show cause notices issued.
7. All responses to show cause notices issued.
8. All termination notices issued.
9. All documentation reflecting Government inspection of goods delivered.
10. All documentation reflecting the addition to inventory of all goods delivered.
11. All documentation reflecting any warranty action(s) invoked.
12. All documentation reflecting the shipping of goods delivered.

Your request was assigned FOIA case tracking number DLA-LANDM-2019-002066.

DLA conducted a thorough search of records and located records responsive to two of the 12 records or documents listed on this FOIA Request; specifically, item #3 and item #12. For both items the responsive e-mail correspondence records are provided. Following extensive review we determined that portions of those records must be withheld pursuant to Exemption 4 of the FOIA, 5 U.S.C. §552(b)(4), trade secrets and privileged or confidential commercial and financial information obtained from a person; and Exemption 6 of the FOIA, 5 U.S.C. §552(b)(6), personnel and medical files and similar files when the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy.

Exemption 4 of the FOIA protects from release two types of records: (1) trade secrets; and (2) information that is commercial or financial obtained from a person and is privileged or confidential. Following the Supreme Court decision in Food Marketing Institute v. Argus Leader Media, 139 S. Ct. 2356 (2019), if the submitter of the contract related records being sought can demonstrate to the Government that the records in question are "customarily kept private, or at least closely held, by the person imparting it," and that "the party receiving it [i.e., the Federal Government] provide[d] some assurance that it will remain secret," then the records are subject to withholding under Exemption 4. Exemption 6 of the FOIA protects the privacy interests of employees who are at or below the directorate level or are not in the public domain. Therefore, the names of certain individuals are withheld.

The Department of Defense (DoD) Manual (DoDM) 5400.07, DoD Freedom of Information Program (January 25, 2017), Section 6.2.h, states that “a record must exist and be in DoD possession and control when the DoD Component searches for it,” and that the DoD Component is “not obligated to create, compile, or answer questions to satisfy a FOIA request.” As such, following a thorough search, DLA has determined that as of the date of the search March 7, 2019, it does not have records responsive to the following elements of your request:

Records Requested	Responsive Records (Yes/No)	Determination
All modifications to the Contract since November 1, 2018.	No	No modifications were issued for the contract after November 1, 2018 as of March 7, 2019.
All orders placed since November 1, 2018.	No	No orders placed for the contract since November 1, 2018 as of March 7, 2019.
All documentation indicating delivery schedules for order.	Yes	Responsive e-mail correspondence records are provided.
All DD250's submitted.	No	No DD250's have been submitted for the contract as of March 7, 2019.
All delivery documentation for all items delivered.	No	No delivery documentation for the contract as of March 7, 2019.
All show cause notices issued.	No	No show cause notice documents issued for the contract as of March 7, 2019.
All responses to show cause notices issued.	No	No show cause documents issued for the contract as of March 7, 2019.
All termination notices issued.	No	No termination documents issued for the contract as of March 7, 2019.
All documentation reflecting Government inspection of goods delivered.	No	No inspection of delivered goods documents issued for the contract as of March 7, 2019.
All documentation reflecting the addition to inventory of all goods delivered.	No	No addition to inventory documents issued for the contract as of March 7, 2019.
All documentation reflecting any warranty action(s) invoked.	No	No warranty actions have been invoked under the contract as of March 7, 2019.
All documentation reflecting the shipping of goods delivered.	Yes	Responsive e-mail correspondence records are provided.

Fees in the amount of \$168.00 are currently due. This fee amount includes 3.5 hours of professional search and review at \$48.00 per hour. **For greater payment efficiency, our agency no longer accepts mailed checks and money orders. Please go to pay.gov for payment check, credit or debit options.** Please go to the website, place “DLA” in the search, scroll down and choose DFAS Columbus Form 6335. Your case information should be in the comments or details section of the form. **Attached for your convenience is a step-by-step instruction guide for using pay.gov.** Please email your payment confirmation (receipt) to Foia_payment@dla.mil, so we can credit your FOIA account.

You have the right to appeal this partial denial. An appeal must be made in writing to DLA FOIA Appellate Authority within 90 calendar days from the date of this letter, and no later than 5:00 pm Eastern Standard Time. The appeal should include your reasons for reconsideration and enclose a copy of this letter. An appeal may be submitted on <https://foiaonline.gov>, or mailed. Appeals are to be addressed to the:

Information Governance and Compliance Office
 Defense Logistics Agency, Suite 1326
 ATTN: FOIA Appeal
 8725 John J. Kingman Road
 Fort Belvoir, Virginia 22060-6221

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services. Similarly, as part of the FOIA Improvement Act of 2016, DLA established a FOIA Public Liaison to offer mediation services. Both OGIS and the DLA Public Liaison will assist in resolving disputes between FOIA requesters and DLA as a non-exclusive alternative to appeal. Using OGIS or the DLA FOIA Public Liaison does not affect your right to pursue appeal nor does it stay the appeal clock. You may contact OGIS or the DLA Public Liaison in any of the following ways:

DLA FOIA Public Liaison Lewis Oleinick, CIPP/US/G Suite 1552, Room 1567 ATTN: J67C (IGC) 8725 John J. Kingman Rd. Fort Belvoir, VA 22060-6221 571-767-6194 (w) Lewis.Oleinick@dla.mil	Office of Government Information Services National Archives and Records Administration Room 2510 8601 Adelphi Road College Park, MD 20740-6001 E-mail: ogis@nara.gov Telephone: 202-741-5770 Facsimile: 202-741-5769 Toll-free: 1-877-684-6448
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Should you have any questions or require further information, please contact Tyler J. Stewart, DLA FOIA Officer, at 614-692-9066 or Tyler.Stewart@dla.mil. Please reference your case tracking number DLA-LANDM-2019-002066 in any subsequent communication regarding this request.

Sincerely,



ROBERT A. RATNER
 Chief of Staff